
BOARD OF SELECTMEN

MEETING MINUTES

6/23/09

The Board of Selectmen met in the Town Hall, Joseph F. Bilotta Meeting Room as scheduled with Thomas Alonzo, Paula Bertram, Steven M. deBettencourt, Thomas Mason, Dave Matthews and CAFO Kerry Speidel present. Meeting opened at 7:02 P.M. with the Pledge of Allegiance

PUBLIC DISCUSSION

None

ANNOUNCEMENTS

- Chair announced that next Monday is the commencement of the summer band concert series for four weeks with July 27th as a rain date.
- School Regionalization meeting will be rebroadcast on the local cable access channel beginning tomorrow from 2:30 PM to 5:30 PM for the next week from Sunday through Saturday.
- Library's annual card board boat race is to be held August 1st, rules and regulations available at library.

APPOINTMENTS

1. 7:10 PM – Police Chief Daniel Bourgeois / Parking Fines – Dan came before the board to discuss the attached fine schedule which has not been revised in over 25 years. Researched with other communities and as we're at a point where we'll have to be ordering new fine booklets it was determined to bring increases before the board. We will need to make one statutory change on the "bus stop" group A. Group C & D have been made one general group and raised to \$25.00. These changes bring the town in line with what Fitchburg and Leominster are currently charging. Chair questioned #8 on the new schedule "within an intersection" and why is this not included in the \$50.00 fine. Chief agreed to move #8 from Group C and move it to Group B within the \$50.00 fines. Tom M. moved to approve the changes including the change to #8, Paula seconded, voted unanimously.

CURRENT BUSINESS

1. CAFO Updates –

- Kerry recently met with the Historic Commission to discuss the Jones House (42 Main Street). They have toured the property and are in the process of preparing a report to present to the board. They are currently recommending that the property be sold with a number of conditions on the sale. They want to ensure that there isn't some municipal use and that the historical integrity is preserved. As the building is in severe disrepair, not sure that there are any municipal purposes for the building would like to present to the board in a workshop and perhaps circulate to other departments for input and possibly present to Town Meeting for sale. Potentially meet with them on the third Tuesday in July for further discussion.
- Update on debris removal, still working with three crews. There has been discussion on increasing number of crews and they will continue with extended hours. Informed the board on the streets where the hangers and takedowns have been completed and also the brush removal per attached list.
- Kerry informed the board that she has spoken with Mr. Marsden's attorney and our Town Counsel and the concern is that this property may be protected under Article 97 which requires special legislation. Read Town Counsel's opinion as follows: Article 97 is relevant to this transaction because the deed by which the Town acquired the Property, which is Middlesex North District Registry of Deeds in Book 1147, Page 180, states that the Property was acquired by the Town "acting by and through its Conservation Commission pursuant to Massachusetts General Laws, Chapter 30, Section 8C." G.L. c. 40, s. 30C allows municipalities to acquire and hold property for conservation purposes. Article 97 applies to all land that is acquired for conservation purposes, park purposes, and for the protection of natural resources. In my opinion, the Property is clearly subject to Article 97. Article 97 provides that the Town cannot convey an interest in such property or change the use of such property without the consent of both houses of the state legislature.

The transaction also raises issues as to whether the Town is required to comply with public construction statutes. G.L. c. 30, § 39M governs the construction of a public works project. The Town is making improvements to Town property, which you have informed me cost approximately \$25,000. Although one could argue that public construction and procurement statutes are inapplicable because the Town is not expending public funds for the improvements, it is clear that the Town is giving Marsden something of value (i.e., the excavated materials) in exchange for his services. Marsden's services are not a gift, which the Town could have accepted without compliance with G.L. c. 30, § 39M. It is also questionable whether and the ease with which the Town can wrap into one contract what appear to be three separate transactions: (i) the procurement of services to make the improvements (which would be bid under G.L. c. 30, § 39M), (ii) the disposal of surplus tangible property (which would be bid under G.L. c. 30B, § 15), and (iii) the acquisition of the conservation property (for which a request for proposals may be necessary under G.L. c. 30B, § 16).

In my opinion, the Town would be in a better position to resolve these issues if we obtained more information from Marsden. The most pressing information the Town needs is: (a) the cost to the Town of the improvements that the Town intends to make to the Property to enhance its conservation values; (b) the amount and the value of the earth that Marsden expects to remove from the Property, and (c) the value of the conservation property that Marsden intends to "donate" to the Town.

Conservation does not believe that Article 97 applies as the Conservation Agent (Matt Marro) has spoken with the State and was advised that Article 97 doesn't apply, and because of this the deed was forwarded to town counsel. With regards to 30B, CAFO does need to pursue procurement issues further. Tom A. believes that as no money was used by the State for this specific purpose then 30B wouldn't apply. Paula would recommend that the Conservation Agent obtain something in writing from the individual that he spoke with on the state level.

- CVS on Electric Ave. opened this past Sunday.
- Pre-disaster mitigation plan, received call from Richard Brockleman of 56 Cross Street informing us that the State has been in touch with him regarding the Farro Pond Dam that is located on his property, noted that compliance has approached five figures and he has followed up diligently with his response to the State. He has hired an engineer to act on his behalf and has submitted paperwork to DCR for their determination to have the dam classified as "low hazard" or "non-jurisdictional"; they have 30 days to respond. Chair would request that homeowners who may have dams located on their property contact the selectmen's office so that we are appraised of their locations.
- On Monday Kerry received information from Senator Flanagan on the Conference Committee budget, somewhat confusing as the chart had combinations of revenues, traditional state aid and federal funding and came up with 5.8 million, that doesn't necessarily mean anything. Noted we have to make a decision at some point on whether we want to pursue the meals tax option. Not sure about what has been identified as "stimulus monies", where that is coming from and have asked Sen. Flanagan about this. Also have a meeting with the School Superintendent tomorrow and will discuss what she is planning. Board noted that everytime we're sent something from the state the format is different and would like to have the same presented to them without the local options. This just confounds an already confusing budget.
- 2010 budget included funding for a part-time network coordinator and under that we have two technicians, one that services the town buildings and one for the schools and a database manager. Included \$40K in the budget, spoke with School Superintendent and she is willing to take the money that she has for her network technician as we may have a better chance of getting somebody for a full time network administrator and our need for a technician is going to be very minimal. Not convinced long term that we will need two technicians and may be able to get by with one. We have advertised for a network administrator, would like to establish a reviewing committee to shortlist the applicants, the hope to have someone on board by August 1st. Steve's concern is facing between a \$100K to \$200K deficit, are we being wise to hire, where's the fairness in it, have to face these questions if there's a potential for layoffs. Per CAFO this position is one of the most critical positions in town, making sure our technology is up and running and fully functional improves the function of everyone that's here. If we get into a position where we're facing layoffs, have to look at what is best for the town and that we have ourselves deployed in the best way to get the jobs done. Paula agreed with the CAFO, and noted that they are not able to do the day to day tasks as they're not able to access efficiently, continuing problems with connectivity. Very pleased with the aspect of hiring a department head and that this is a move in the right direction, need someone with a technical background. Dave noted that we're not getting good productive use of our people and this should save us all in the long run. Tom M. concurred with both Paula and Dave, this position will take care that the departments are running. Chair noted that the poor stability of the system that we have now impedes the progress of the people that we do have. Believe that the job was stretching the people that we have too thin. Steve does not want to potentially be compromising public safety because we may need to lay people off to fund this position. Chair noted that he is not insensitive to people losing their jobs, or the impact that this may have to public safety, there are positions that we have to prioritize for this town and noted that it may come to a balance and other positions that we have to weigh as to what is a higher priority.

2. Minutes - Board of Selectmen regular session for 6/2/09, Executive Session for 6/2/09.

Warrants - #26LS 09, 6/18/09 - \$416,429/80, #26P 09, 6/23/09 - \$638,931.61 and #69 09, 6/23/09 - \$1,148,819.24 reviewed and signed.

Contracts - None

3. Action File Issues –

Chair presented the letter of support and read into the record to DPU Secretary Mary Cottrel as follows:

The Lunenburg Board of Selectmen has voted to send this letter in support of the Attorney General's recommendation of a \$4.6 million penalty against Until. In their filing of June 5, 2009, we feel the Attorney General has properly summarized and evaluated the size and scope of Until's unacceptable level of unpreparedness before the December 11, 2009 ice storm, their dismal performance during the storm and their inexcusable action of overestimated billing after the storm. Until's actions, before, during and after the storm, put people's lives and safety in jeopardy, placed people's property at risk and misled the and municipal officials every step of the way. The most vulnerable of our citizens were completely neglected and left, literally, in the dark. At every turn, the data shows, the company put their bottom line ahead of what was running in live wires overhead.

We feel that the fines recommended by the Attorney General are not only well-founded but are also within the authority of the DPU both in technical scope and severity given the current regulations. They are also needed to set a clear example that the DPU regulations are serious, that they need to be followed and that public safety and consumer protection are paramount in an arena where a state-sponsored monopoly is allowed. In fact, the DPU and its regulations are the ratepayers' only protection against outrages such as Until has demonstrated

Lastly, we strongly urge the DPU, the Attorney General's office and our state legislators to work together to ensure that this penalty finds its way back to the people of the four towns of Ashby, Fitchburg, Lunenburg and Townsend, whose citizens had to endure the hardships, both financially and emotionally, that Unitil's corporate incompetence and unpreparedness caused. Our residents believe, and we concur, that they should be afforded some relief from what they went through and not see any penalty levied against Unitil disappear into the coffers on Beacon Hill or elsewhere. They would only feel victimized again.

Respectfully, Tom Alonzo, Chair, Lunenburg Board of Selectmen

Chair will submit to Town Counsel to present towards our case. Paula motion to send the letter, Dave seconded, voted unanimously. Dave noted that this action is aimed at the executive level at Unitil and to get their house in order, not an attack on the local employees in town, but to those at fault.

In other business, Tom M. noted letter in action file on the expansion of the bottle bill and would like the board consider further action; to be placed on agenda for next meeting.

Steve would like to know what would be remaining as far as street lists to still be done on the debris removal project and perhaps having this listed on the cable station.

OLD BUSINESS

1. Committee Updates –

- Dave School Committee met and have substantially settled the union contracts, noted that they are progressive in containing costs and commended the School Committee and Unions for all their efforts.
Discussion on the Committee that has been looking at the alternative to regionalization and the questions on what if we did not regionalize and the feeling of the committee is that we can still maintain what we're doing today. Also noted the question of the facilities feasibility study that was done two years ago; that money that was spent was well used and will continue to be a benefit and the results of the study will be used again in the future. This will all come back into the mix and part of the decision making on our high school in the not too distant future. Need to get the information out to the public in order to make informed decisions, concern is that there is not enough information currently out there and we need to strive to get the people informed.
- Paula update on CWMP; the Sewer Commission had a very lengthy workshop and prior to distribution to the public the draft will come back to the commission for final review. Hope to have completed soon; at the latest by early fall. A number of contractual issues that we're trying to work out with the engineering firm, and a question on the MEPA filing requirement.
- Chair informed the board that the Charter Review Committee submission on the Charter special legislation did get reviewed by committee today and was received favorably. There will be one more reading before it goes to final house and before the legislature.

2. CAFO Evaluation - CAFO presented her "self evaluation" which includes what the composite rating was, what her rating was, and if there were vast differences. Her evaluation of herself scored lower than the composite scoring. The areas where she came out higher or lower, there wasn't anything that was a surprise. A cursory review and what the board had written was a benefit to clarify what they would expect. Overall was very pleased in terms of the scores and the thoughts that were put into to comments that were included in the evaluation. Noted eighteen months into this, still feel that she is too involved in doing the work and not delegating and planning. Have number of current problems; unforeseen things that have come up and things that should have been done a number of years ago. Need to make sure that we're making progress on both and would like to be able to spend more time balancing. Noted the Human Resource type functions, personnel and benefits structure that a number of people are addressing and this is cumbersome. Still need somebody who can interface with the unions and deal with grievances at the first level, instead of coming directly to me, should be somebody before me to make a decision so that the appeal can then come to me. Somebody to assist in the union negotiations, one person designated to assist in the process, also to ensure that the annual reviews are being done. Definitely see the area of personnel as needing improvement. Noted the progress on outstanding projects such as the Meadow Woods project, the ADA Act of 1990 was finally submitted in March of 2009 and should have been done when it initially came out and this was a federal requirement for funding. Should have been adopted years ago and in a file that could have been easily accessed, the financing has been difficult as have not had the benefit of the Treasurer's office taking care of this. Also, took care of a number of the buildings, sold the old chief's house and utilized this money for renovations to the Ritter Building; have a viable plan for the old primary school. We've started the foundation for a good budget document, we're making progress.

Kerry noted that she would like to spend more ways managing and improving the work; to establish standardized forms, checklists on any number of things that come before the board, making better use of the website. The biggest thing that the board can do to assist is to realize what is realistic and the time involved in accomplishing tasks, sometimes the more progress we make, the more people expect. Would like to spend time working with policies and procedures and to ensure that we do things the right way. In terms of future goals, would like to continue working on building renovation and reuse, number of buildings need work and need to be brought up to better standards. Expressed appreciation to the board for taking the time that was put into the evaluations. Chair expressed appreciation to the CAFO and noted that this is not an easy task to perform a self evaluation, most important part is the process that we have an open dialogue and that there are things that we need to keep in mind as a board.

Goals meeting to be scheduled for the third week in July.

3. Ritter Memorial Sign - tabled.

4. Meadow Woods Financing – CAFO presented documentation for the USRDA grant portion. Will be using the State House note program used for small issues and become part of a larger issue from the State, all of which is reimbursable through the project. Only the loan portion of the project has been closed out not the grant portion as the loan funds are used first and then the grant funds. The Sewer Bond is for the full loan amount of \$1,711,000 and the Water Bond is for the full loan amount of \$1,153,000. The funding from RDA came in the form of both loan and grant in the following amounts: Sewer Loan - \$1,711,000, Sewer Grant - \$ 765,000, Water Loan - \$1,153,000, Water Grant - \$525,000 , Total funding: \$4,154,000. The funding shows that for both projects, the loan represents 75% of the funding and the grant 25%.

Paula noted that it was the Sewer Commission understands that the piping from the trailer to the street was to be replaced in its entirety and the commission is clarifying this with the DPW Director. Tom M., motion to approve, Steve seconded, voted unanimously to approve.

COMMITTEE APPOINTMENTS / REAPPOINTMENTS / RESIGNATIONS

1. 7:30 P.M. – James Hayes, Council on Aging Appointment – of 125 Chestnut Street noted that he has 73 years of aging, significant financial background. Has met with the COA and Tom read the attached memo to the board into the record. Paula motion to appoint James Hayes to the Council on Aging, Tom M. seconded, voted unanimously to approve.

2. Board of Selectmen & CAFO Appointments & Reappointments – Board reviewed the attached lists.

CAFO presented separate lists as identified in the Charter, began with Section 4-2C.

Paula questioned Acting Treasurer Collector appointment and what the proposal is long term for that position. CAFO noted that we are required by law to have a Treasurer, biggest need to have a person as serving as Acting as Treasurer Collector for wiring funds, some wires need to have second confirmation. Would like to put together a small screening committee and would like to move fast in filling this position. There isn't anybody on staff that has 100% experience, noted the salary that we offer is of concern. Looking to have somebody in by the end of July, no later than the end of August. May make sense to do a temporary appointment, no term date (1 yr). Tom M., move we accept the CAFO's recommendations, Paula seconded, voted unanimously to approve. CAFO noted the dates are appointment dates, not sure why some of these appointments are made annually when they have 3 or 5 year contracts. If someone has a three year contract, don't need to have on annually, will be corrected for next year. Voted unanimously to approve.

CAFO presented appointments under Section 4-2(d) as attached. Paula questioned what the Technical Advisory Committee and is a group made up of individuals that review development plans with the MRPC. Board would also like one or two descriptions as to what each of these appointments entails. Tom M., move to approve the appointments as read under Section 4-2 (d), Dave seconded, voted unanimously.

Chair read into the record the letter of resignation from Jeanne DeBruin as a member of the Senior Citizen Property Tax Work-off Program & Taxation Committee, letter of appreciation be sent for many years of service.

Steve motioned to appoint Doreen Noble to the Senior Citizen Property Tax Work-off Program & Taxation Committee under 3-1(d), Dave seconded, voted unanimously.

Charter section 3-2 (d) per attached lists.

Tom M., noted that we should be holding Deborah Lincoln as she has not been attending meetings.

No Charter Review Committee, has been dissolved.

Also, hold on David Rodgers for Finance Committee for further clarification as he has stated to the Fin Com that he is not seeking another term..

Chair noted that there are still vacancies and would request talent bank forms be submitted to the board.

Steve questioned the transition to the Acting Treasurer / Collector and per the CAFO, we will have the auditors in next week to see if they can do an analysis.

EXECUTIVE SESSION

1. Labor Relations

Being no further business board voted unanimously to adjourn Regular Session at 9:12 P.M. to enter into Executive Session, not to return to regular session.

Respectfully submitted,

Laura Williams, Chief Administrative Assistant
Board of Selectmen